

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT C. WOMACK,

**Plaintiff,**

METROPOLITAN TRANSIT SYSTEM, et al.

## Defendants.

Case No. 09cv2679 BTM(NLS)

## ORDER DENYING MOTION TO AMEND OR ALTER JUDGMENT

Plaintiff has filed a motion to alter or amend judgment pursuant to Fed. R. Civ. P.

59(e). For the reasons discussed below, Plaintiff's motion is **DENIED**.

19        In an Order filed on February 28, 2011, the Court granted summary judgment in favor  
20 of Defendants. Judgment was entered on March 2, 2011. Plaintiff filed the instant motion  
21 on March 17, 2011.

22 There are four basic grounds upon which relief under Rule 59(e) may be granted: (1)  
23 if such motion is necessary to correct manifest errors of law or fact upon which the judgment  
24 rests; (2) if such motion is necessary to present newly discovered or previously unavailable  
25 evidence; (3) if such motion is necessary to prevent manifest injustice; or (4) if the  
26 amendment is justified by an intervening change in controlling law. Allstate Ins. Co. v.  
27 Herron, 634 F.3d 1101, 1111 (9th Cir. 2011). Rule 59(e) is an “extraordinary remedy” that  
28 should be used “sparingly.” Carroll v. Nakatani, 342 F.3d 934, 945 (9th Cir. 2003).

1       The Court has considered Plaintiff's arguments and has reviewed the exhibits  
2 submitted by Plaintiff, and concludes that Plaintiff has not demonstrated any grounds for  
3 altering the judgment. For the most part, Plaintiff rehashes the arguments he made in  
4 opposition to the motion for summary judgment and takes issue with factual details that do  
5 not affect the outcome of the case. Plaintiff's "new evidence" was previously available, and  
6 Plaintiff has not established that Defendants and/or their counsel engaged in any misconduct  
7 that affected the Court's decision. Although Plaintiff disagrees with the Court's decision,  
8 Plaintiff has not shown that the Court committed errors of law or fact upon which the  
9 judgment rests.

10       Even if the Court were to construe Plaintiff's motion as a motion for relief from a  
11 judgment or order under Rule 60(b), Plaintiff has not established a basis for relief.

12       Accordingly, Plaintiff's motion is **DENIED**.

13 **IT IS SO ORDERED.**

14       DATED: May 24, 2011

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16       Honorable Barry Ted Moskowitz  
17       United States District Judge

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